

HOW TO KEEP OUT OF LEGAL TROUBLE IN A HOME RENOVATION

Avoiding the money pit in Florida

By [Jessica Glynn](#)

[Scott D. Lehman](#) has been practicing [construction law](#) for 25 years, crafting contracts and litigating disputes ranging from small residential projects to the New World Symphony's concert hall. When he speaks to audiences about residential construction, he shows Tom Hanks in front of his disaster of a home in *The Money Pit* after everything that can go wrong has gone wrong.

Lehman, with Eisenberg Lehman in Coral Gables, admits even he has suffered through a remodel that tested his marriage: "We got ourselves into a situation that I always tell my clients not to. It's not easy. Even the most familiar can fall prey to these pitfalls."

That's especially true during the pandemic, as people wanting to make improvements to the homes where they've been confined for so long find contractors in high demand. But [attorneys](#) urge patience and planning on the front end to avoid problems.

"Homeowners should ensure that any contractor they engage is reputable, licensed, bonded and insured," urges business litigator [Todd A. Levine](#), at Kluger, Kaplan, Silverman, Katzen & Levine in Miami, who sees problems arise when homeowners hire "fly-by-night" contractors who take the money, then fail to do the job properly—or at all.

Levine says it's important to have a written agreement and understand it. He advises having a lawyer review it. Lehman always wants monthly billings, based on percentage of completion, to protect clients from property liens. Subcontractors are supposed to notify owners that they will be working on their project.

"The notice that's provided says, 'Make sure I'm getting paid, because you may pay the contractor, and if he doesn't pay me, you may have to pay twice,'" Lehman adds.

Before each monthly payment, the contractor should provide proof that subcontractors for the previous period have been paid.

Another sticking point, says Lehman, is over deposits.

"I just had an owner doing a million-dollar addition, and the contractor wants a \$100,000 deposit," Lehman recounts. "He said, 'There's a lot of materials that need to be purchased.' I said, 'No, all your materials should be provided to the job by a supplier who gives you terms. Then

we'll pay you within those terms.'

"What frequently happens is these guys have a problem on another job and take the money you give them and pay off the bills on the other job," Lehman continues, "so if there's any problem during construction, they don't have the money to deal with it."

Construction lawyer [Jason M. Rodgers-da Cruz](#), with Siegfried Rivera in Coral Gables, says he sees a lot of homeowners get upset about vastly different quotes—often a signal that the scope of the project has not been well-defined.

"Owners have a general idea of what they want, but they don't know how to put the pieces of the puzzle together," he says. "One way to help with that is to hire an architect or design professional."

When it comes to project delivery date, Rodgers-da Cruz—whose recent pool project took five months rather than the anticipated 75 days—says to expect delays under normal circumstances, and to realize those may be exacerbated during COVID-19, as distribution channels narrow or someone on a crew gets sick.

Even if nothing goes wrong along the way, Rodgers-da Cruz says to make sure the project is fully inspected in the end; and permits pulled in the beginning. "Contractors will say 'I can do this job for you with permits for this cost and without it will be cheaper,' but one is complying with the law and the other isn't," he says.

Lehman says it's important to remember the golden rule: The person with the gold rules. The final payment should not be made until the job is done. During his own bathroom project, Lehman found a mistake that could have ended in a moldy, pricey disaster.

"There are no shortcuts in construction," he says. "Even the best contractors are working off of small margins. Nobody's got a guy that can save you 50% ... As soon as you hear that, run."